IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 81 OF 1998.

Somaiya Organo-Chemicals Ltd. ... Applicant.

V/s.

The Commissioner of Income-tax. ... Respondent.

P.J.Pardiwala i/b. Mulla & Mulla C.B.C.
for the applicant.

Ashok Kotangale with Parag Vyas
for the respondent.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 4th October 2005.

P.C. :

. By this reference under section 256(1) of the Income-tax Act, 1961, the Income Tax Appellate Tribunal has referred the following question of law for the opinion of this Court:

> "Whether, on the facts and in the circumstances of the case, the Tribunal rightly disallowed the sum of Rs.21,478/- being the amount deducted from the sale proceeds of alcohol and spirit and transferred to storage fund for molasses and alcohol account under the Ethyl Alcohol (Price Control) Amendment Order, 1971?"

. Learned counsel for the parties agreed that the question sought to be referred to this Court for opinion has already been answered by the Apex Court

in the case of **C.I.T. v. New Horizon Sugar Mills P.Ltd.**, (2004) 269 ITR 397 in favour of assessee.

. Accordingly, the question referred is answered in the negative i.e. in favour of assessee and against the Revenue.

. Reference stands disposed of with no order as to costs.

(J.P.DEVADHAR, J.) **(V.C.DAGA, J.)**